

A motion to reconsider was laid on the table.

#### PERSONAL EXPLANATION

Mr. TIAHRT. Mr. Speaker, today I was unavoidably detained and missed rollcall vote numbers 22 and 23. Had I been present, I would have voted "yes" on approving the Journal of February 15, and "yes" on H. Res. 423, the rule for H.R. 2366, the Small Business Liability Reform Act.

#### MILLENNIUM DIGITAL COMMERCE ACT

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 761) to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. SUNUNU). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 761

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Millennium Digital Commerce Act".

#### SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The growth of electronic commerce and electronic government transactions represent a powerful force for economic growth, consumer choice, improved civic participation and wealth creation.

(2) The promotion of growth in private sector electronic commerce through Federal legislation is in the national interest because that market is globally important to the United States.

(3) A consistent legal foundation, across multiple jurisdictions, for electronic commerce will promote the growth of such transactions, and that such a foundation should be based upon a simple, technology neutral, nonregulatory, and market-based approach.

(4) The Nation and the world stand at the beginning of a large scale transition to an information society which will require innovative legal and policy approaches, and therefore, States can serve the national interest by continuing their proven role as laboratories of innovation for quickly evolving areas of public policy, provided that States also adopt a consistent, reasonable national baseline to eliminate obsolete barriers to electronic commerce such as undue paper and pen requirements, and further, that any such innovation should not unduly burden inter-jurisdictional commerce.

(5) To the extent State laws or regulations do not provide a consistent, reasonable national baseline or in fact create an undue burden to interstate commerce in the important burgeoning area of electronic commerce, the national interest is best served by Federal preemption to the extent necessary to provide such consistent, reasonable national baseline or eliminate said burden, but

that absent such lack of consistent, reasonable national baseline or such undue burdens, the best legal system for electronic commerce will result from continuing experimentation by individual jurisdictions.

(6) With due regard to the fundamental need for a consistent national baseline, each jurisdiction that enacts such laws should have the right to determine the need for any exceptions to protect consumers and maintain consistency with existing related bodies of law within a particular jurisdiction.

(7) Industry has developed several electronic signature technologies for use in electronic transactions, and the public policies of the United States should serve to promote a dynamic marketplace within which these technologies can compete. Consistent with this Act, States should permit the use and development of any authentication technologies that are appropriate as practicable as between private parties and in use with State agencies.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to permit and encourage the continued expansion of electronic commerce through the operation of free market forces rather than proscriptive governmental mandates and regulations;

(2) to promote public confidence in the validity, integrity and reliability of electronic commerce and online government under Federal law;

(3) to facilitate and promote electronic commerce by clarifying the legal status of electronic records and electronic signatures in the context of contract formation;

(4) to facilitate the ability of private parties engaged in interstate transactions to agree among themselves on the appropriate electronic signature technologies for their transactions; and

(5) to promote the development of a consistent national legal infrastructure necessary to support electronic commerce at the Federal and State levels within existing areas of jurisdiction.

#### SEC. 4. DEFINITIONS.

In this Act:

(1) **ELECTRONIC.**—The term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) **ELECTRONIC AGENT.**—The term "electronic agent" means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

(3) **ELECTRONIC RECORD.**—The term "electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(4) **ELECTRONIC SIGNATURE.**—The term "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) **GOVERNMENTAL AGENCY.**—The term "governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, or institution of the Federal Government or of a State or of any county, municipality, or other political subdivision of a State.

(6) **RECORD.**—The term "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(7) **TRANSACTION.**—The term "transaction" means an action or set of actions relating to the conduct of commerce, between 2 or more persons, neither of which is the United

States Government, a State, or an agency, department, board, commission, authority, or institution of the United States Government or of a State.

(8) **UNIFORM ELECTRONIC TRANSACTIONS ACT.**—The term "Uniform Electronic Transactions Act" means the Uniform Electronic Transactions Act as provided to State legislatures by the National Conference of Commissioners on Uniform State Law in that form or any substantially similar variation thereof.

#### SEC. 5. INTERSTATE CONTRACT CERTAINTY.

(a) **IN GENERAL.**—In any commercial transaction affecting interstate commerce, a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) **METHODS.**—Parties to a transaction are permitted to determine the appropriate electronic signature technologies for their transaction, and the means of implementing such technologies.

(c) **PRESENTATION OF CONTRACTS.**—Notwithstanding subsection (a), if a law requires that a contract be in writing, the legal effect or enforceability of an electronic record of such contract shall be denied under such law, unless it is delivered to all parties to such contract in a form that—

(1) can be retained by the parties for later reference; and

(2) can be used to prove the terms of the agreement.

(d) **SPECIFIC EXCLUSIONS.**—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a State, other than sections 1-107 and 1-206, Article 2, and Article 2A.

(2) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(3) Documents of title which are filed of record with a governmental unit until such time that a State or subdivision thereof chooses to accept filings electronically.

(4) Residential landlord-tenant relationships.

(5) The Uniform Health-Care Decisions Act as in effect in a State.

(e) **ELECTRONIC AGENTS.**—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect or enforceability solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual's own behalf or as an agent for another person.

(f) **INSURANCE.**—It is the specific intent of the Congress that this section apply to the business of insurance.

(g) **APPLICATION IN UETA STATES.**—This section does not apply in any State in which the Uniform Electronic Transactions Act is in effect.

#### SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transaction:

(1) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law.

(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those